UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 07-3906 (FLW)

IN RE: VONAGE MARKETING AND SALES PRACTICES LITIGATION	TRANSCRIPT OF PROCEEDINGS MAY 12, 2011

CLARKSON S. FISHER UNITED STATES COURTHOUSE
402 EAST STATE STREET, TRENTON, NEW JERSEY 08608

B E F O R E: THE HONORABLE FREDA L. WOLFSON, USDJ

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-and-
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On behalf of the Plaintiffs

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On behalf of Defendant Vonage

A L S O P R E S E N T:

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* * * * *

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C E R T I F I C A T E

PURSUANT TO SECTION 753, TITLE 28, USC, THE FOLLOWING TRANSCRIPT IS CERTIFIED TO BE AN ACCURATE TRANSCRIPTION OF MY STENOGRAPHIC NOTES IN THE ABOVE-ENTITLED MATTER.

S/Vincent Russoniello
VINCENT RUSSONIELLO, C.C.R.
OFFICIAL U.S. COURT REPORTER

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(In open court.)

THE CLERK: All rise.

THE COURT: Thank you.

Good morning. Let me have the appearances, please.

MR. GEORGE: Good morning, your Honor.

Scott Alan George with Seeger Weiss for the plaintiffs in the class.

MR. FRIEDMAN: Good morning, your Honor. Andrew Friedman with Cohen, Milstein, Sellers & Toll, also for the class.

MS. NUGENT: Victoria Nugent with Cohen, Milstein, Sellers & Toll, also for the class.

MR. SHUB: Good morning, your Honor.

Jonathan Shub, Seeger, Weiss for the class.

MR. LAMANCUSA: Good morning, your Honor.

Frank Lamancusa, Bingham, McCutchen, for Vonage.

MS. FRIEDMAN: Randy Friedman, in-house counsel, for Vonage, along with my business colleague, Rennard Snowden.

THE COURT: Thank you.

Who is going to be speaking on behalf of the plaintiff?

MR. GEORGE: Myself, your Honor, Scott George.

THE COURT: Have a seat everyone. Thank you.

I have received all of the papers that have been submitted by class counsel in this matter in support of the final order to approve the settlement in this matter and to certify the class for settlement purposes. In that regard I have received the documentation regarding how notification was provided.

I have also received the limited objections that have been filed in this matter, the written objections, and you have provided me with copies of those. I have those as exhibits at this point, your response to those objections, and I'm looking about the courtroom now and I see that there are no objectors who are present here in court today. Everyone seems to agree with that. And, certainly, having looked at the objections and where these various individuals were located, none of them were submitted, obviously, by individuals represented by counsel. I think one of the objectors is an attorney himself who is a party, but, other than that, they are all out of state; and I note that none of them are present here today to present any further argument or position in that regard.

With that, I'll hear a short presentation from the plaintiffs, if there is anything else that you

wish to add to the papers that you have already submitted.

MR. GEORGE: No, your Honor, just that this is providing dollar-for-dollar relief to the settlement class which is particularly valuable given the recent decision by the Supreme Court in Concepcion which would have given defendant Vonage a far firmer foot to challenge class certification in this case and demand individual arbitration of the claims asserted by the plaintiff.

The notice program was robust with direct notice to the class. Over 6 million emails went out to the 3 million or so class members. We have only a few objections and a handful of opt-outs. It speaks volumes to the benefits that this settlement is giving to the class, and we believe, as we said in our papers, it should be approved as fair and adequate.

THE COURT: I know that the defendant has submitted no papers and is taking basically no position with regard to the fee request or anything else in that regard.

Is that correct?

MR. LAMANCUSA: That is correct. We do not oppose the fee request.

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THE COURT: Then, at this point, I don't think we need to belabor any further positions. I have those. I'm ready to issue my findings with regard to this matter.

This will be the Court's determination of the motions for final approval of the proposed settlement and an award of attorneys' fees and reimbursement of expenses that have been filed by the named plaintiffs -- Budd Nahay, Robert Starrett, Alex Nevelson, Eric Terrell, Darlene Pennock, Francesco Trama, and John Stewart, that I'll collectively refer to as the "plaintiffs" in this oral opinion; and this settlement is to resolve all claims asserted against defendant Vonage America, Inc., Vonage Holdings Corp., and Vonage Marketing, Inc., that I'll collectively refer to as "Vonage" throughout the proceedings.

Let me begin by some of the procedural history.

Vonage sells products and services which are designed to enable its customers to make and receive telephone calls over the internet. On December 4, 2006, plaintiffs Nahay and Starrett initiated a putative class action lawsuit against Vonage alleging that Vonage misrepresented several features of its service, including the service of its promotional one

month free and money-back guarantee offers, and the charges associated with the account cancellation, and that Vonage failed to timely honor requests for cancelation. Subsequently, several actions were filed based on similar allegations around the nation.

On August 6, 2007, the Judicial Panel on Multi-District Litigation transferred all related actions to this Court. On November 19, 2008, the Court consolidated the transferred cases and appointed Cohen, Milstein, Sellers & Toll, PLLC, and Seeger, Weiss, LLP, as co-lead class counsel. The following month plaintiffs filed a consolidated class action complaint. In that complaint, plaintiffs sought relief on behalf of a nationwide class for breach of contract, breach of implied covenant of good faith and fair dealing, and violations of New Jersey and California consumer protection laws, and for unjust enrichment.

After the filing of the complaint, Vonage moved to compel arbitration and to dismiss and/or stay claims based on arbitration clauses, including bans on class actions that were included in Vonage's various terms of service.

On September 1, 2009, the Court heard and denied Vonage's motion without prejudice to Vonage

resubmitting the motion after a period of discovery relating to the dispute resolution arbitration provisions.

On November 16, 2009, Vonage and the attorneys general of 32 states entered into a settlement. Central to this settlement were prospective changes in the disclosures made by Vonage to customers, as well as changes to its cancelation procedure to better ensure that cancelations were timely made. In this settlement, compensation was made available to persons who had complained before March 16, 2010, to the attorneys general. However, no wider notice or claims process was available to customers who had not filed such a complaint.

On December 2, 2009, Vonage renewed its motion to compel arbitration, and the motion was pending during the parties' settlement discussions in this case. The parties agreed to administratively terminate that motion in light of the settlement talks.

Eventually, the parties entered into a settlement in principle on September 24, 2010.

On January 13, 2011, the Court granted preliminary approval of the settlement.

Is there an issue, counsel?

MR. LAMANCUSA: I thought that was January 3rd?

MR. GEORGE: Yes, January 3rd.

THE COURT: Okay. Let me correct that, the 3rd.

If you have any issues as I'm reading this, interrupt me.

MR. LAMANCUSA: Understood. Thank you.

THE COURT: It's a long oral opinion, so feel free.

Notice to the class included direct notice by electronic mail to all account holders who are or may be affected by the settlement, publication for three weekdays in USA Today, a static notice on account holder's account sites, a toll-free number, and a dedicated web page that provided access to the long form notice, frequently asked questions, and important litigation documents, including the settlement agreement.

In this proposed settlement Vonage agrees to make a payment of $4.75 million in cash into a common fund for the benefit of the proposed settlement class, including the costs of settlement administration and attorneys' fees and costs associated with the prosecution of these claims and the administration of

the settlement. The proposed settlement class consists of: all persons in the United States, its territories or possessions who are or were subscribers or customers of Vonage on or before the entry of the preliminary approval order of January 3rd, 2011, who:

1. Signed up under a one- or two-month free service promotion;

2. Cancelled service within 10 days of the expiration of their money-back guarantee promotion;

3. Were charged a disconnection fee; and/or

4. Requested cancelation but were thereafter charged regular monthly service fees for service they did not use after the cancellation request. Cash benefits available to the members of the settlement class for these four categories of damages are as follows:

1. One month free claims: Class members who subscribed to Vonage service under a one- or two-month free promotion and the promotional period of service began on the date their accounts were administratively opened, not the date full service was available for use, are eligible to receive $10.

2. Money-back guarantee claims: Class members who subscribed to Vonage service under a money-back guarantee promotion and cancelled their

subscription between 31 and 40 days after signing up with Vonage but were charged and paid a monthly service fee or equipment charges from Vonage and did not receive a refund or credit from Vonage for such fees or charges are eligible to receive a refund for such fees and charges. The refund would not exceed $25 for the monthly service fee and $80 for equipment charges, and it may be subject to pro rata reduction.

MR. GEORGE: Your Honor?

THE COURT: Yes.

MR. GEORGE: There was a small period of time in the categories definition as well where there was a two-month money-back guarantee window, which your Honor has not provided for in the oral opinion so far, where it was between 61 and 70 days, between August 15th, 2007, and February 3rd, 2008.

THE COURT: Let me hear exactly what the language is that's included there.

MR. GEORGE: Okay. After the 31- and 40-day window, there is -- or between 61 and 70 days for settlement class members who signed up between August 15, 2007, and February 3, 2008.

THE COURT: Same amounts?

MR. GEORGE: Yes.

THE COURT: Okay.

3, the disconnection fee claims: Class members who subscribed to Vonage service who were charged and paid any termination, cancellation, or disconnection fee for cancelling Vonage service, and did not receive a refund or credit for such fees from Vonage, are eligible to receive payment for those fees. The refund would not exceed $40, and it may be subject to pro rata deduction.

4. The post-cancelation service fee claims: Class members who requested cancelation of their subscription with Vonage but were thereafter charged and paid regular monthly service fees for service they did not otherwise use after the cancelation and they were not reimbursed for those charges from Vonage are eligible to receive payment for such service fees. The refund would not exceed $50, and it may be subject to pro rata reduction.

No cash payment will be made on any claim for any of these categories where the total distribution amount is less than $10. Class members may be eligible for up to $195 in cash benefits subject to pro rata reduction.

I'll next discuss the steps which the parties took in sending out the settlement notices to potential class members.

After I preliminary approved the class action settlement, Vonage personnel began the process of identifying the current and former Vonage accounts that would receive notice of the settlement via email.

As of January 4, 2011, the complete universe of Vonage U.S. accounts was 6,316,002. From that list Vonage excluded accounts that did not meet the requirements of the class members as set forth in the Court's preliminary approval. Ultimately, nearly 82 percent of all U.S. Vonage accounts were sent email notifications of the proposed settlement. Using the services of PM Digital, Inc., within 20 days of the entry of the preliminary approval, Vonage sent a total of 5,179,301 notifications to email addresses of which over 80 percent were successfully delivered.

MR. LAMANCUSA: Excuse me, your Honor?

THE COURT: Yes.

MR. LAMANCUSA: One point of correction. The email addresses were 5,179,031.

THE COURT: All right.

MS. FRIEDMAN: Your Honor, also, we started the emails within 20 days. They weren't complete within 20 days.

THE COURT: Okay.

MS. FRIEDMAN: Per the Court's order.

THE COURT: Let me clarify that those email certifications began within 20 days.

When was the process completed?

MR. LAMANCUSA: February 11th.

THE COURT: And the process of email notification was completed then by February 11.

MR. LAMANCUSA: That's correct.

THE COURT: And of those, over 80 percent were successfully delivered.

MR. LAMANCUSA: That is correct.

THE COURT: In addition, Vonage posted an announcement on its website regarding the settlement to all of its then customers which ran for 60 consecutive days. The customers were directed to call a toll free number or go to a website to obtain information regarding the settlement.

Finally, a publication with information regarding the settlement was posted on USA Today for three weeks.

Is that correct?

MR. GEORGE: Three days.

THE COURT: That's what I had previously. Three days.

In response to the notices, as of April 28, 2011, the parties have received a total of 103 timely

opt-outs; and as of April 8, 2011, plaintiff received 38,653 claims.

Is that correct?

MR. GEORGE: Yes, your Honor.

THE COURT: The deadline for submitting a claim is 60 days after the entry of the final approval order and judgment. Plaintiffs, with the assistance of Epiq Class Action and Claims Solutions, the settlement administrator, will administer the common fund, including dispersing the award to class members.

Furthermore, a total of 12 objections have been received by the Court from class members raising various issues ranging from the fairness of the settlement to the alleged excessiveness of the requested attorneys' fees by plaintiffs, and those objections will be discussed more fully in this opinion.

Class certification.

As the case has not proceeded to the class certification stage, the Court has to first determine whether to certify the settlement case. The Third Circuit in In re Insurance brokerage Antitrust Litigation, 579 F.3d 241, 257-58, 3d Cir. 2009, explained the standard for class certification in a settlement context. In order to approve a class

settlement agreement, "a District Court must determine that the requirements for class certification under Federal Rule of Civil Procedure 23(a) and (b) are met and must determine that the settlement is fair to the class under Federal Rule of Civil Procedure 23(e)."

As the Supreme Court has made clear, "Confronted with a request for settlement-only class certification, a District Court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there would be no trial. But other specifications of Rule 23, those designed to protect absentees by blocking unwarranted or overbroad class definitions, demand undiluted, even heightened, attention in the settlement context." Amchem Products, Inc., v. Windsor, 521 U.S. 591, 1997.

Further, the Court indicated: "If a fairness inquiry under Rule 23(e) controlled certification, eclipsing Rule 23(a) and (b) and permitting class designation despite the impossibility of litigation, both class counsel and the Court would be disarmed." Thus, it is important to "apply the class certification requirements of Rules 23(a) and (b) separately from the fairness determination under Rule 23(e)." In re Prudential Insurance Company America Sales

Practice Litigation Agent Actions, 148 F.3d 2383, 3d Cir. 1998.

"The requirements of Rule 23(a) and (b) are designed to insure that a proposed class has 'sufficient unity so that absent class members can fairly be bound by decisions of class representatives.'" Under Rule 23(a) the prerequisites to class are:

"One, the class is so numerous that joinder of all members is impracticable. Two, there are questions of law or fact common to the class. Three, the claims or defenses of the representative parties are typical of the claims or defenses of the class. And, four, the representative parties will fairly and adequately protect the interests of the class." That's Federal Rule of Civil Procedure 23(a). Also, see Amchem, 521 U.S. at 613.

"If all of the prerequisites of Rule 23(a) are satisfied, a class action may be maintained if the standards set forth in Rule 23(b) are satisfied as well." In re Insurance Brokerage, 579 F.3d at 257.

Rule 23(b)(3) requires "the Court to find that the questions of law or fact common to class members predominate over any questions affecting only individual members and that a class action is superior

to other available methods for fairly and efficiently adjudicating the controversy." Amchem, 521 U.S., at 618. Also from the case: "Among current applications of Rule 23(b)(3) the 'settlement only' class has become a stock device." The "factual determinations necessary to make Rule 23 findings must be made by a preponderance of the evidence. In other words, to certify a class, the District Court must find that the evidence more likely than not establishes each fact necessary to meet the requirements of Rule 23." In re Insurance Brokerage, 552 F.3d at 258. Accordingly, "class certification is proper only if the Court is satisfied after a rigorous analysis that the pre-requisites of Rule 23 are met."

"Even if it has satisfied the requirements for certification under Rule 23, a class action cannot be settled without the approval of the Court and a determination that the proposed settlement is fair, reasonable, and adequate." In re Prudential Insurance Company, 148 F.3d at 316. See 23(e)(2) stating that a District Court may approve a proposed settlement "only after a hearing and on finding that it is fair, reasonable, and adequate."

In In re Insurance Brokerage the Third Circuit affirmed the applicability of nine factors established

in Girsh v. Jepson, 521 F.2d 153, 3d Cir. 1975, which are to be considered when determining the fairness of a proposed settlement. "Where settlement negotiations precede class certification and approval for settlement and certification are sought simultaneously, we require District Courts to be even more scrupulous than usual when examining the fairness of the proposed settlement." In re Sodium Antitrust Litigation, 391 F.3d 516, 534, 3d Cir. 2004.

As stated earlier, the parties request that the following should be certified as a class: All persons in the United States, its territories or possessions who are or were subscribers or customers of Vonage on or before the entry of the preliminary approval order on January 3, 2011, who: 1, signed up under a one- or two-month free service promotion; 2, cancelled service within ten days of the expiration of their money-back guarantee promotion; 3, were charged a disconnection fee; and/or, 4, requested cancelation but were thereafter charged regular monthly service fees for service they did not use after the cancelation request.

I'll now address numerosity.

First, the Court determines whether plaintiffs have satisfied the prerequisites for maintaining a

class action as set forth in Rule 23(a).

With respect to numerosity, a party need not precisely enumerate the class members to proceed as a class action. In re Lucent Technology, Inc., Securities Litigation, 307 F.Supp.2d 633, District of New Jersey, 2004. A class may not be certified unless the representative class members "will fairly and adequately protect the interests of the class." Federal Rule of Civil Procedure 23(a)(4). "Rule 23(a)'s adequacy of representation requirement 'serves to uncover conflicts of interest between named parties and the class they seek to represent.'" In re Pet Food Products Liability Litigation, 2010 U.S. App. Lexis 25628, at 26-27, 3d Cir. December 16, 2010, quoting Amchem. Class representatives "must be part of the class and possess the same interest and suffer the same injury as the class members." In re Pet Food Products Liability Litigation. "No minimum number of plaintiffs is required to maintain a suit as a class action, but generally if the named plaintiff demonstrates that the potential number of plaintiffs exceed 40, the first prong of Rule 23(a) has been met." Stewart v. Abraham, 275 F.3d 220, at 226-27, 3d Cir. 2001.

Here the numerosity element is easily

satisfied. There are potentially millions of class members dispersed throughout the United States and, therefore, joinder of all class members is impracticable.

Commonalty.

Commonality requires that "there are questions of law or fact common to the class." Rule 23(a)(2). The threshold for establishing commonality is straightforward. "The commonality requirement will be satisfied if the named plaintiffs share at least one question of fact or law with the grievances of the protective class." In re Schering Plough, 589 F.3d 585, at 596-97, 3d Cir. 2009, quoting Baby Neal v. Casey, 43 F.3d 48, at 56, 3d Cir. 1994. Indeed, as the Third Circuit pointed out, "It is well established that only one question of law or fact in common is necessary to satisfy the commonality requirement despite the use of the plural 'questions' in the language of Rule 23(a)(2)." In re Schering Plough, 589 F.3d at 97, note 10. Thus, there is a low threshold for satisfying this requirement. Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 259 F.3d, 154, 183, 3d Cir. 2001, and In re Sch. Asbestos Litigation, 789 F.2d, 996, 1010, 3d Cir. 1986, highlighting that the threshold of commonality is not

high.

Indeed, the requirements of commonality and typicality are broadly defined and tend to merge. Baby Neal, 43 F.3d., at 56. "Both criteria seek to assure that the action can be practically and efficiently maintained and that the interests of the absentees will be fairly and adequately represented." Baby Neal. Despite their similarity, commonality, like numerosity, evaluates the sufficiency of the class itself, and typicality, like adequacy of representation, evaluates the sufficiency of the named plaintiff. See Hassine v. Jeffes, 846 F.2d 169, at 177, note 4, 3d Cir. 1998; Weiss v. York Hospital, 745 F. 786, at 810, 3d Cir. 1984, cert. denied, 470 U.S. 1060, 1985. More importantly, neither of these requirements mandates that all putative class members share identical claims, and that "factual differences among the claims of the putative class members do not defeat certification." Baby Neal, 43 F.3d at 56. In that regard, class members can assert a single common complaint even if they have not all suffered actual injury; demonstrating that all class members are subject to the same harm will suffice. Hassine, 846 F. At 177-78, and cf. Riley v. Jeffes, 777 F. 143, at 147, 3d Cir. 1995. Finding constitutional violation

in prisoners being subject to constant threat of violence and sexual assault and rejecting contention that plaintiff must actually be assaulted before obtaining relief. "Even where individual facts and circumstances do become important to the resolution, class treatment is not precluded." Baby Neal, 43 F.3d at 56.

In this case, in the consolidated complaint, plaintiffs originally proposed to separate the class into four subclasses:

1, a national marketing class of persons who signed up for broadband telephone services with Vonage;

2, a national cancelation class of persons who were charged monthly service fees, disconnection fees, or other fees after canceling Vonage's service;

3, a California marketing class of California residents who signed up for broadband telephone services with Vonage;

4, a California cancelation class of California residents who were charged monthly service fees, disconnection fees, or other fees after canceling Vonage's service.

With respect to the California class members, named plaintiffs Nevelson and Terrell asserted

separate state law claims against Vonage. However, for settlement purposes, the Court recognizes that the California class members need not have their own separate class because this settlement globally resolves all class claims. In that regard, the Court finds that there are common questions of law or fact shared amongst the class. Importantly, common to all members is the issue of whether Vonage engaged in a deceptive and misleading advertising campaign, specifically, whether Vonage misrepresented the scope of its promotional programs and improperly collected fees despite requests for cancelation. Indeed, class members who are current or former customers of Vonage were subject to these allegedly deceiving practices. As such, the elements of commonality are met.

Typicality.

"The concepts of commonality and typicality are broadly defined and tend to merge because they focus on similar aspects of the alleged claims." Newton, 259 F.3d at 182. Specifically, Rule 23(a)(3) requires that "the claims of the representative parties be typical of the claims of the class." Typicality acts as a bar to class certification only when "the legal theories of the named representatives potentially conflict with those of the absentees."

Georgine v. Amchem Products, 83 F.3d 610 at 631, 3d Cir. 1996, and Newton, 259 F.3d at 183. "If the claims of the named plaintiffs and putative class members involve the same conduct by the defendant, typicality is established regardless of factual differences." Newton at 184.

In other words, the typicality requirement is satisfied as long as representatives and the class claims arise from the same event or practice or course of conduct and are based on the same legal theory. Brosious v. Children's Place Retail Stores, 89 F.R.D., 138 at 146, District of New Jersey, 1999. Here, since plaintiffs' claims arise from the same course of conduct and are predicated on the same legal theories as the claims of all other members of the class, that is, the alleged misleading misrepresentations and false advertising in connection with Vonage's marketing practices, the typicality requirement of Rule 23(a) is satisfied.

Turning to adequacy of representation.

Class representatives must "fairly and adequately protect the interests of the class." 23(a)(4). This requires a determination of: 1, whether the representatives' conflict with those of the class, and, 2, whether the class attorney is

capable of representing the class. Newton, 259 F.3d at 187. The Supreme Court has stressed that this element "serves to uncover conflicts of interest between named parties and the class they seek to represent." Amchem, 521 U.S., at 625. It also functions as a catch-all requirement that "tends to merge with the commonality and typicality requirement of 23(a)." Amchem at 626, note 20.

Here the named plaintiffs are adequate representatives for the class because each of them encountered Vonage's alleged deceptive marketing practices. Plaintiffs Nahay and Starrett were improperly charged fees by Vonage after each canceled the service. Plaintiffs Nevelson and Terrell were improperly charged by Vonage for service that should have been free under Vonage's one month free promotion. Plaintiff Pennock was denied the benefit of Vonage's money-back guarantee and improperly charged fees by Vonage after she canceled the service. Plaintiffs Trama and Stewart were improperly charged fees by Vonage after Vonage transferred his telephone number. In that respect, like all members of the class, plaintiffs were subject to the same challenged marketing policies and practices.

In addition, plaintiffs have no interests that

are antagonistic to or in conflict with the class because their alleged injuries are identical to those suffered by class members. As such, the absent class members' interests will be protected adequately. See In re Warfarin Sodium Antitrust Litigation, 391 F.3d at 522, 3d Cir. 2004. Moreover, having reviewed co-lead counsel's resumes, the Court is satisfied that the law firms of Cohen, Milstein, Sellers & Toll, PLLC, and Seeger, Weiss, LLP, are experienced in class action and consumer fraud litigation, and, therefore, they are adequate to represent the interests of plaintiffs and the class.

Turning to Rule 23(b)(3), superiority requirements.

In addition to meeting the requirements of Rule 23(a), the class must also satisfy Rule 23(b)(3). Rule 23(b)(3) requires that "a class action be superior to other available methods for the fair and efficient adjudication of the controversy." The rule sets out several factors relevant to the superiority inquiry: The interest of members of the class in individually controlling the prosecution or defense of separate actions; the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; the desirability or

undesirability of concentrating the litigation of the claims in the particular forum; and the difficulties likely to be encountered in the management of a class action. Essentially, the superiority requirement "asks the Court to balance in terms of fairness and efficiency the merits of a class action against those of alternative available methods of adjudication." Prudential, 148 F.3d at 316, In re Warfarin, 392 F.3d at 532-33.

In this case, each of these factors weigh in favor of class certification.

First: The expense of individual actions in this consumer fraud action, weighed against the potential recovery, would clearly be cost prohibitive.

Second: This is a multi-district litigation whereby all of the suits filed against Vonage nationwide relating to Vonage's marketing practices have been consolidated and are now properly before the Court.

Third: Since there is no related litigation pending in this district or elsewhere, there is no indication that potential individual plaintiffs would prefer to prosecute their claims individually, and class members were given the opportunity to opt out of the class.

Indeed, this district is the most appropriate venue since Vonage's principal place of business is located in the district, most of the decisions regarding the alleged misleading advertising decisions were made in this district, and much of the evidence and many of the witnesses relevant to plaintiffs' claims are located here.

In addition, no unusual difficulties in managing this litigation have been encountered.

Finally, when confronted with a request for settlement-only class certification, the Court need "not inquire whether the case if tried would present intractable management problems, for the proposal is that there be no trial." Amchem, 521 U.S. at 620.

In addition, to meet the requirements of Rule 23(b)(3), named plaintiffs must show that common questions of law or fact predominate over questions affecting only individual class members. In determining whether common questions predominate, Courts have focused on the claims of liability against defendants. See Bogosian v. Gulf Oil Corp., 561 F. 434 at 456, 3d Cir. 1977. As stated earlier in this opinion, common legal and factual questions are shared amongst the class members and plaintiffs in this action. Specifically, class members and plaintiffs

challenge the same alleged marketing policies and practices by Vonage. Accordingly, the factual and legal principles to be addressed by plaintiffs in prosecuting these claims are sufficiently common to the entire class thereby satisfying the predominance requirement.

Having weighed all the factors and considered all the requirements of class certification, the Court finds that it is appropriate to certify the class for settlement purposes.

Turning now to the settlement itself.

At the outset I note that the law encourages and favors settlement of civil actions in federal courts, particularly in complex class actions. In re Warfarin, 391 F.3d at 535; see In re General Motors, 55 F.3d 768 at 784, 3d Cir. 1995. "The law favors settlement particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding litigation." Accordingly, when a settlement is reached on terms agreeable to all parties, it is to be encouraged. Bell Atlantic Corp. v. Bolger, 2F.3d 1304 at 1314, note 16, 3d Cir. 1993.

Nevertheless, a class action settlement may not be approved under Rule 23(a) without a determina-

tion by the Court that the proposed settlement is "fair, reasonable, and adequate." See In re Cendant, 264 F.3d at 231; and also Rule 23(e)(1)(A). The Third Circuit has on several occasions stressed the importance of Rule 23(e) noting that "The District Court acts as a fiduciary who must serve as a guardian of the rights of absent class members." General Motors, 55 F.3d at 785; and See also Amchem, 521 U.S. at 623, noting that the Rule 23(e) inquiry "protects unnamed class members from unjust or unfair settlements affecting their rights when the representatives become fainthearted before the action is adjudicated or are able to secure satisfaction of their individual claims by a compromise."

However, in cases such as this where settlement negotiations precede class certification and approval for settlement and certification are sought simultaneously, the Third Circuit requires District Courts to be even "more scrupulous than usual" when examining the fairness of the proposal settlement. See General Motors, 55 F.3d at 805. This heightened standard is intended to ensure that class counsel has engaged in sustained advocacy throughout the course of the proceeding, particularly in settlement negotiations, and has protected the interests of all class

members. See Prudential, 148 F.3d at 317.

To ensure fairness, the Third Circuit has identified nine factors to consider when determining whether a proposed class action settlement is fair, reasonable, and adequate. See Girsh v. Jepson, 521 F.2d 153 at 157, 3d Cir. 1975. The factors are:

1, the complexity, expense, and likely duration of the litigation;

2, the reaction of the class to the settlement;

3, the stage of the proceedings and the amount of discovery completed;

4, the risks of establishing liability;

5, the risks of establishing damages;

6, the risks of maintaining the class action through the trial;

7, the ability of the defendants to withstand a greater judgment;

8, the range of reasonableness of the settlement fund in light of the best possible recovery; and

9, the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

This Court has considerable discretion in approving a proposed settlement of the class action.

In light of the above principles, the Court will determine whether the settlement in this case is reasonable.

The first factor involves a consideration of the "probable costs" in both time and money of continued investigation. In that regard, the complexity, expense, and likely duration of litigation in a securities class action weighs in favor of approving elements. This Court in this case, this marketing case, finds that the first factor weighs in favor of settlement.

Here, the case would involve complex and protracted discovery, extensive trial preparation, and various legal and factual issues. Due to Vonage's procedural challenge involving arbitration, the parties have not engaged in any meaningful discovery. Indeed, numerous depositions would have to be taken if Vonage's procedural challenge does not succeed. In that regard, this litigation would likely be drawn out with an extended discovery period necessary and a trial that would likely not occur until the distant future. Moreover, given the breadth of the alleged deceptive marketing conduct on the part of Vonage, extensive expert discovery may be necessary. Accordingly, there remains a substantial amount of money and

time to be spent if this litigation were to continue.

More specifically, class counsel would have to spend extensive time to review thousands of pages of documents produced from Vonage and take numerous depositions of both defendants and employees of Vonage. Moreover, completing a trial of this litigation would take several additional months and would inevitably be followed by appeals, all of which would delay any eventual payout to the class.

More importantly, during the pendency of this matter, the Supreme Court issued its decision in AT&T Mobility LLC v. Concepcion, 2011 WL 1561956, U.S., April 27th, 2011, wherein the Court held that state contract law which would deem class-action waivers in arbitration agreements unenforceable when certain criteria are met is preempted by the Federal Arbitration Act because it stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. This decision has a substantial impact on this litigation because there is a similar arbitration clause like the one in Concepcion included in Vonage's terms of service. Indeed, Vonage had moved to compel arbitration based upon that clause. Plaintiffs would face an uphill battle in opposing Vonage's motion in light of the Supreme

Court's decision; and should Vonage prevail, class members would be compelled to arbitrate their claims on an individual basis. As such, this factor greatly favors settlement.

Turning to reaction of class members.

As indicated earlier, there are millions of class members nationwide, and timely notices were sent to over four million people. To date, the Court has received only 103 opt-outs and 12 objections.

MR. LAMANCUSA: Five million, your Honor.

THE COURT: Five million.

MR. LAMANCUSA: That's correct.

THE COURT: Right.

The Court will briefly address the objections.

The objections fall generally into two categories: Customers whose asserted losses exceed the benefits provided under the settlement and people who are hostile to class actions and those objectors who are hostile to class actions and lawyers.

The Court notes at the outset that 12 objections is certainly a small number as compared to the millions of potential class members. Having reviewed the objections, the Court did not find that any of them are sufficient for the Court to re-evaluate the fairness of the settlement or the fees

requested here. In particular, one objector simply stated that "tort lawyers provide very little, if any, value to society and have definitely done damage." Similarly, another objector complained generally that lawyers are paid "too much and class members are not being paid enough."

These general objections are not proper bases to object to the fairness of this settlement or the attorneys' fees, and, as such, they mount no meaningful challenge to the settlement.

Some objectors complained that they would not be made whole because of the caps placed on each of the benefit groups in the settlement. For example, one objector states that her losses are $42.79 but the benefit is capped at $40. Another objector asserts that Vonage owes him $566.22, although he provides no support for that amount. The Court does not find that these objections weigh in favor of rejecting the settlement terms.

Indeed, in assessing the adequacy of a settlement, the Court acknowledges that it is necessary to consider that a settlement is a compromise, "a yielding of the highest hopes in exchange for certainty and resolution." Prudential, 962 F.Supp. at 534. In that regard, not every class member would be able to recoup

all of his or her losses. Certainly, however, the Court finds that this settlement provides a fair and reasonable relief to the class. Indeed, to the extent that the settlement does not fully compensate an extreme situation, an objector has the opportunity to opt out of the settlement and pursue his or her claims individually.

Finally, other objectors question why the settlement does not address the impact that their disputes have had on their credit ratings. However, these issues were not part of the claims brought by plaintiffs and are not relevant to the class claims or the purpose of this settlement.

The Court notes that there are two objectors who raised questions regarding the adequacy and timing of the notice and claims process. The Court need not address these objections in detail because I have already found that the claims process initiated and administered by plaintiffs complies with the Court's preliminary approval. Indeed, an overwhelming number of notices were sent out on a timely basis.

In sum, for the purpose of this factor, the few objections and opt-outs from the class members as compared to the potential number of class numbers create a presumption that the factor weighs in favor

of settlement. In re Cendant, 264 F.3d at 235. "The vast disparity between the number of potential class members who received notice of the settlement and the number of objectors creates a strong presumption that this factor weighs in favor of the settlement." Indeed, under Girsch, such a small member of negative responses favors approval of a class action settlement. See Stoetzner v. U.S. Steel Corp., 897 F.2d 115, at 119, 3d Cir. 1990. Objections by 29 members of a class comprised of 281 "strongly favors settlement." In re Prudential Insurance, 962 F.Supp. 450 at 537, D.N.J., 1997. A small number of negative responses to settlement favors approval. Weiss v. Mercedes-Benz of North America, 899 F.Supp.1297, at 1301, D.N.J., 1995. 100 objections out of 30,000 class members weighs in favor of settlement.

Certainly, our numbers are even more greatly skewed; the few number of objections and opt-outs compared to the millions in the class.

Next, turning to the stage of proceedings and the amount of discovery completed.

This factor "captures the degree of case development that class counsel have accomplished prior to the settlement. Through this lens, Courts can determine whether class counsel had an adequate

appreciation of the merits of this case before negotiating." In re Cendant, 264 F.3d at 235. Even settlements reached at a very early stage and prior to formal discovery are appropriate when there is no evidence of collusion and the settlement represents substantial concession by both parties.

This case has been in litigation for more than five years, and counsel have gained more than sufficient information to evaluate the merits of plaintiffs' claims, the strength of the defenses asserted by Vonage, and the value of plaintiffs' claims for purposes of settlement. Although no formal discovery was conducted in the litigation, the settlement is modeled on the AG settlement. The parties were able to appreciate the value of the claims in this case.

Simply stated, class counsel has had more than adequate opportunity at this stage of the proceedings to appreciate the merits of their claims as well as thoroughly understand the legal and factual issues encompassed within these claims. Thus, class counsel is in possession of sufficient information to allow it to evaluate the fairness of the settlement, and this factor weighs in favor of approval.

Risks in establishing liability and damages.

The fourth and fifth factors "survey the potential risks and rewards of proceeding to litigation in order to weigh the likelihood of success against the benefit of an immediate settlement." In re Warafin, 391 F.3d at 537. In other words, these factors attempt "to measure the expected value of litigating the action rather than settling it at the current time." In re Cendant, 264 F.3d at 237-39. Both factors clearly weigh in favor of approval of settlement in this case.

Here plaintiffs face the unique and substantial risk in pursuing liability and damages in this case in light of the Supreme Court's Concepcion decision. As this Court has explained, plaintiff would face a tremendous hurdle in opposing Vonage's motion to compel arbitration. Should Vonage prevail, plaintiffs would be unable to pursue Vonage on these claims on a class action, but, rather, each class member would have to resort to arbitrate his or her claims individually.

To avoid such a result, the Court finds that the settlement provides the best relief for the class. In addition, factoring into the Court's determination is class counsel's representation, with which this Court agrees, that the settlement is well within the

range of reasonableness in light of the best possible recovery, possible setoffs, and attendant risks of litigation. Accordingly, given the real and extensive risks involved in this case for plaintiffs, these two factors weigh heavily in favor of approval of the settlement. See In re Suprema Specialties, 2008 WL 906254, at 5-6, approving settlement where plaintiffs would have difficulty establishing liability and damages. In re Genta Securities Litigation, 2008 WL 2229843, D.N.J. May 28, 2008, indicating the same.

Turning now to the factor of the risks of maintaining the class action through trial.

Because the Court finds that plaintiffs would likely not be able to proceed in this forum in light of the arbitration clause, plaintiffs would not be able to maintain class action status if they were compelled to proceed individually in arbitration. Even if plaintiffs were able to successfully oppose Vonage's motion to compel arbitration, this factor does not weigh against the settlement. As the Third Circuit has explained, this factor tends to be neutral because under "Federal Rule of Civil Procedure 23(a), a District Court may decertify or modify a class at any time during the litigation if it proves to be unmanageable," and proceeding to trial would always

entail the risk, even if slight, of decertification. In re Cendant, 264 F.3d at 239. Accordingly, the Court finds this factor weighs in favor of settlement.

Turning to the defendant's ability to withstand a greater judgment.

This factor addresses whether defendants "could withstand a judgment for an amount significantly greater than the proposed settlement." In re Cendant, 264 F.3d at 240. In this instance, Vonage's ability to withstand a greater judgment is not clear as it is a matter of public record that Vonage has an enormous debt while it continues to attempt to earn revenues in an ever increasingly competitive market. In re Safety Components, 66 F.Supp.2d, at 86-88. Defendants' financial condition weighs in favor of settlement. Therefore, it is possible that after years of costly litigation, Vonage would not be able to withstand a judgment of a comparable amount of money as the settlement could achieve. Accordingly, this factor militates in favor of approving the settlement.

Turning to the range of reasonableness of the settlement.

The last two factors evaluate whether the settlement represents a fair and good value for a weak

case or a poor value for a strong case. In re Warfarin, 391 F.3d at 558. "In conducting this evaluation, it is recognized that settlement represents a compromise in which the highest hopes for recovery are yielded in exchange for certainty and resolution, and Courts should guard against demanding too large a settlement based on the Court's view of the merits of the litigation." In re Safety Components, 166 F.Supp.2d at 92; In re AT&T Corp. Securities Litigation, 455 F.3d 160 at 170, 3d Cir. 2006. Finding settlement was an excellent result in light of the risk of establishing liability and damages despite the fact that settlement possibly represented only 4 percent of the total damages claimed.

Here the Court is satisfied that in light of the fact that plaintiffs would have a real risk of pursuing their claims in this forum, these two factors also weigh in favor of approving settlement. In this regard, an immediate recovery of $4.75 million in cash to the class is advantageous and fair to the class. Under the settlement, class members are eligible to receive up to $195 for each account they had with Vonage. To compensate class members for Vonage's one-month free promotion, and to recognize the lost

time between ordering Vonage's service and actual activation, class members are eligible for $10 which reflects full compensation for most class members in this category.

Those class members who canceled after introductory periods but were charged disconnection fees are eligible for up to $25 for service charges -- that is, a full month -- and $80 for any equipment charges that were assessed. This represents full compensation for most class members in this category.

Those class members who canceled after introductory periods but were charged disconnection fees are eligible for up to $40, which also represents nearly the full compensation for those class members.

Finally, class members who canceled service but continued to pay service fees without using the service are eligible for up to $50. This, too, represents the full compensation for most class members.

Assuming all of the 38,653 claims -- I think I have the right number. Correct?

MR. LAMANCUSA: As of April 8th.

THE COURT: Right.

(Continuing) -- claims received as of April 8, 2001, are paid at the maximum allowable amounts, these

claims would be paid in full.

Accordingly, having reviewed the settlement terms, the Court finds that the settlement provides a fair and reasonable recovery for the members of the class.

Having weighed all of the factors, the Court finds that the settlement is fair, reasonable, and adequate, and, as such, the Court grants final approval of the settlement pursuant to Rule 23(e).

Turning now to the attorneys' fees and expenses.

Lead counsel from the law firm of Seeger Weiss, LLP, and Cohen, Milstein, Sellers & Toll, PLLC, requests an award of attorneys' fees and reimbursement of expenses incurred in this litigation. Lead counsel requests a fee award of $1,583,175, which represents 33 1/3 percent of the $4.75 million settlement fund, plus reimbursement of expenses of $30,437.41.

Attorneys' fees are typically assessed through the percentage-of-recovery method or through the lodestar method. In re AT&T Corp. Securities Litigation, 455 F.3d 160 at 164, 3d Cir. 2006. The percentage-of-recovery method applies a certain percentage to the settlement fund. See Welch & Forbes, Inc. V. Cendant Corp., 43 F.3d 722 at 732,

note 10, 3d Cir. 2001. The lodestar method multiplies the number of hours class counsel worked on a case by a reasonable hourly billing rate for such services. In re AT&T, 455 F.3d at 164.

In common fund cases such as this one, the percentage-of-recovery method is generally favored because "it allows Courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.'" In re Rite Aid Corp. Securities Litigation, 396 F.3d 294 at 300, 3d Cir. 2005. However, the Third Circuit has recommended that District Courts use the lodestar method to cross-check the reasonableness of a percentage-of-recovery fee award. See Rite Aid, 396 F.3d at 305. The cross-check is performed by dividing the proposed fee award by the lodestar calculation resulting in a lodestar multiplier. "When the multiplier is too great, the Court should reconsider its calculation under the percentage-of-recovery method with an eye toward reducing the award." Rite Aid, 396 F.3d at 306. The lodestar cross-check, while useful, should not displace a District Court's primary reliance on the percentage-of-recovery method. In re AT&T, 455 F.3d at 164.

When analyzing a fee award in a common fund

case, the Court considers several factors, many of which are similar to the Girsh factors as enunciated previously. See Rite Aid, 396 F.3d at 301, note 9. These include:

1, the size of the fund created and the number of persons benefitted;

2, the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel;

3, the skill and efficiency of the attorneys involved;

4, the complexity and duration of the litigation;

5, the risk of nonpayment;

6, the amount of time devoted to the case by plaintiffs' counsel; and

7, the awards in similar cases.

The list is not exhaustive. In Prudential, the Third Circuit noted three other factors that may be relevant and important to consider:

1, the value of benefits accruing to class members attributable to the efforts of class counsel as opposed to the efforts of other groups, such as government agencies conducting investigations. Prudential, 148 F.3d at 338;

2, the percentage fee that would have been negotiated had the case been subject to a private contingent fee agreement at the time counsel was retained;

3, any innovative terms of settlement.

The fee award reasonableness factors "need not be applied in a formulaic way" because each case is different "and in certain cases one factor may outweigh the rest." Rite Aid, 396 F.3d at 301. The Court may also give some of these factors less weight in evaluating a fee award. See In re Cendant, 264 F.3d at 283, and Prudential, 148 F.3d at 339.

Moreover, the analysis of the Gunter factors overlaps with the Girsh factors used to assess the appropriateness of the settlement. In that regard, the Court will refer to its earlier findings when reviewing the application.

Before analyzing the factors, I will delineate the total lodestar amounts for attorneys, paralegals, and law clerk time calculated at current market rates, and, by using those numbers, perform a lodestar cross-check to confirm the reasonableness of the request.

I note at the outset that the parties have been litigating this matter for over five years, and

while formal discovery had not taken place, a substantial amount of documents were exchanged and reviewed by counsel. In addition, multiple motions were filed in the case. In light of the efforts, lead counsel and their staffs represent that they spent a total of 3,166.05 hours. Counsel's rates vary between attorneys and between paralegals, depending on the position, experience level, and locale of the particular attorney.

Having reviewed the attorneys' declarations, the Court is satisfied that the hourly rate charged for the attorneys and their staff is based upon a reasonable hourly billing rate for such services in the given geographical area, the nature of the services provided, and the experience of each lawyer. Gunter v. Ridgewood Energy Corp, 223 F.3d 190 at 195, 3d Cir. 2000. Having determined that the hourly rates are reasonable and the amount of hours spent prosecuting the case is reasonable, the total lodestar amount is approximately $1.46 million. This figure results in a multiplier of 1.08. In this circuit, multiples ranging from 1 to 4 are frequently awarded in common fund cases when the lodestar method is applied. In re AT&T, 455 F.3d at 172; Weiss, 899 F.Supp. at 1304; and a number of other cases. As

such, this Court finds a multiplier of 1.08 is fair and reasonable, and, against this backdrop, I will analyze the factors.

The size of the fund and number of persons benefitted.

As I have already noted, Vonage has diligently sent out hundreds of thousands of notices to potential class members and a substantial number of claims have been filed by those members. Indeed, under the calculations provided by counsel, most class members will receive full compensation as to the fees and charges they incurred as a result of Vonage's alleged deceptive marketing practices.

As I have set forth and determined previously, I reiterate here that the settlement provides a fair and reasonable recovery for the members of the class since it will likely make many of the class members whole. In that regard, lead counsel were able to obtain a sizeable result on behalf of the class despite the substantial risks they faced in pursuing their claims here in this forum and ultimately establishing liability. Moreover, many thousands of people would likely participate in settlement given that notice of the settlement was sent to millions of class members. Hence, this factor supports counsel's

fee application.

Regarding objections, as the Court indicated earlier, there are currently only 12 objections made by class members. I've discussed those objections before, and, indeed, they were either of the most general nature as to a general aversion to class actions or lawyers or as to a very specific objection as to an individual. In that regard, the absence of any meaningful objections and the minimal number of objections are probative in determining that the fee request is fair. Rite Aid, 396 F.3d at 305; In re AT&T, 455 F.3d at 170. Accordingly, this factor weighs in favor of approving the fee request.

Turning to the skill of class counsel.

To measure the quality of counsel, Courts examine the result achieved, the difficulties faced, and the speed and efficiency of the recovery, the experience and expertise of counsel, and the performance and quality of opposing counsel. Milliron v. T-Mobile USA, Inc., 2009 WL 3345762 at 10, D.N.J., September 10, 2009. In this case, lead counsel, without the benefit of a formal discovery process, conducted an investigation relating to the alleged deceptive marketing practices by Vonage.

Despite the difficulties of pursuing the class

claims in this forum, lead counsel negotiated a sizeable settlement within a reasonable amount of time since the start of this litigation. Because of those efforts, the class will benefit more. Had the case proceeded further, it would have resulted in more expenditure of fees and costs, or an eventual dismissal.

As I have determined earlier, class counsel are skilled and experienced in litigating these types of cases. In fact, class counsel have prosecuted this action against prominent national firms with ample resources -- the Drinker, Biddle & Reath firm, the Duane, Morris firm, and the Bingham, McCutchen firm. The fact that lead counsel negotiated a favorable settlement with these firms, the Court finds this factor weighs in favor of approving the fee request.

Turning to complexity and duration of the litigation.

The Court has already noted, when analyzing the first Girsh factor, that the claims against defendants were complex, and it was uncertain whether plaintiffs would prevail in light of the Concepcion case. Without repeating the previous findings on this issue, I find again that, by successfully negotiating a settlement, lead counsel provided the class with a

substantial benefit at this juncture. Thus, this factor weighs in favor of approving the fee request.

Turning to risk of non-payment.

Under the seventh Girsh factor, I had already indicated that it is possible Vonage would not be able to withstand a greater judgment based on its financial status. In this regard, receiving little or no recovery is a major factor in considering an award of attorneys' fees. Thus, this factor weighs in favor of approving the fee request.

Turning to the time devoted to the litigation.

Lead counsel have devoted significant time to the litigation. Since the inception of this case, counsel spent well over 3,000 hours of professional time in prosecuting the case. Having accepted the responsibility of prosecuting the class action on a contingent fee basis and without any guarantee of success or award, lead counsel, nonetheless, was able to negotiate a settlement that will benefit the class members. Considering that there were a number of pretrial motions class counsel had to litigate and principally whether it could proceed in this forum, the Court concludes class counsel's efforts also weigh in favor of approval.

Turning to awards in similar cases.

The comparison of the fee sought by lead counsel with fees awarded in recent class actions militates in favor of approving the fee. Although there is no general rule, the Third Circuit has observed that fee awards in common fund cases range from 19 percent to 45 percent of the settlement fund. In re Lucent Technology, 327 F.Supp.2d at 432, which listed more than twenty actions at that time where Courts have approved fee awards between 22.5 percent and 33 1/3 percent. Accordingly, this factor weighs in favor of approval.

Having analyzed all of the factors, the Court finds that a fee request of 33 1/3 percent of the total settlement fund is reasonable, and I will approve the request.

Turning to class counsel expenses.

Expenses are compensable in a common fund case if they are of the type typically billed by attorneys to paying clients in the marketplace. In re Safety Component, 166 F.Supp.2d at 108. Lead counsel's expenses in this case total $30,437.41, which include consulting and investigation fees, photocopying of documents, online research, messenger service, postage, long distance telephone calls, court costs, and other incidental expenses related to the prose-

cution of the case. These expenses are all of the types that Courts in this district have approved, and, accordingly, I approve the request for reimbursement of these expenses.

Finally, I note pursuant to Article V, Paragraph 3 of the settlement agreement, lead counsel is to decide upon the distribution of attorneys' fees among the eligible counsel. All parties to the settlement agreement agreed to its terms, and, as such, lead counsel will make the appropriate distributions to counsel from the award.

Finally, in recognition of their services to the class, each named plaintiff is entitled to a payment of $1,000 under the terms of the settlement. Courts routinely approve awards to compensate named plaintiffs for the service they provide and risk incurred during the course of the class calculation. See sChemi v. Champion Mortgage, 2009 WL 1470429, at 13, D.N.J., May 26, 2009. Since the amount sought for each plaintiff is relatively nominal, I also find that request is appropriate, and I will approve that as well.

I think that deals with all of the matters. I was provided with a proposed form of approval of order and judgment in this matter, which I'll review at this

time and I'll be prepared to sign it. So if you just give me a couple of minutes to go back to fill in some of the numbers, and if you want to wait, we can give you copies of the signed approval of order and judgment to take with you today.

Thank you.

THE CLERK: All rise.

(Proceedings concluded.)

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C E R T I F I C A T E

I, **Vincent Russoniello**, Official United States Court Reporter and Certified Court Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee, nor attorney, nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.

S/Vincent Russoniello
Vincent Russoniello, C.C.R.
Certificate No. 675
Date: June 6, 2011